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7 March 1968

MEMORANDUM FOR: Chief, European Area, OCI
INFORMATION : Chief, WH Division
AC/E/BC
SUBJECT: European IRG Meeting - 28 February 1968
REFERENCE AC/EUR Memorandum, Same Subject, 6 March 1968

1. Forwarded herewith are the minutes of subject IRG meeting concerning "Proposal to Mitigate the Extraterritorial Effects of U.S. Cuban Assets Control and Foreign Assets Control Regulations".

2. As the minutes indicate, State proposes to refer its proposal to the SIG along with comments from the Departments of Commerce and Treasury expressing their reservations about the proposal.

3. We are to provide comments regarding the attached minutes by 15 March. It is accordingly requested that addressees provide comments by COB 12 March, if it is desired to take a stand pro or con on this issue. As noted in reference memorandum, the writer took a neutral stand (translated by the chairman into "no objection") at the IRG meeting. If it is agreed to maintain our neutral position, a telephone call to undersigned will suffice and I will clear the attached minutes with the IRG Staff Director.

STATINTL

[Redacted]
Acting Chief
European Division

Attachment:
AS Noted

SECRET

March 5, 1968

TO : IRG/EUR Regular Meeting

FROM : Robert M. Beckwith, Staff Director, IRG

SUBJECT: IRG/EUR Meeting of February 28, 1968

It would be appreciated if you could advise whether clearance of the attached draft Minutes of the Meeting of February 28 could be received in this office by March 15.

Attachment:

Draft Minutes of
Meeting of 2/28/68

RMB/afm

cc:

INTERDEPARTMENTAL REGIONAL GROUP
FOR EUROPE

Minutes of Meeting of February 28, 1968

Chairman: George S. Springsteen

Present: DOD - Dr. Halperin

NSC - Mr. Fried

USIA - Mr. Shea

JSC - Brig. Gen. Marshall

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CIA - [REDACTED]

Treasury - Mr. Albright, Mr. Somerfield,
Mrs. Schwartz, Mr. Rendall

Justice - Mr. Doherty

Commerce - Mr. Fox, Mr. Thau, Mr. Meyer

ARA - Mr. Fitzgerald

E - Mr. Wright

EA - Mr. Barnett, Mr. McCord

EUR/CAN - Mr. Smith, Mr. Ogg

EUR - Mr. Beaudry

Conclusions

1. The meeting noted approval of the minutes of the meeting of February 14.

2. Recognizing that there were basic differences of view among the members, it was decided that the paper would be forwarded to the SIG with the addition of material brought out in the discussion as well as such separate papers as the Departments of Commerce and Treasury might wish to append.

The present paper was supported by the Departments of State, Justice, and Defense, and by USIA. The NSC and CIA indicated no objection, while Treasury and Commerce were opposed.

Discussion:

The Country Director for Canada, Mr. Smith, explained the background of the issue and urged favorable consideration for the recommendations in the paper, which simply stated are to extend the present general license under Cuban Assets Control to include United States officers of American-owned subsidiaries abroad and then to bring regulations under the Foreign Assets Control into line. The net effect would be to permit the ~~U.S. owned subsidiaries/in which U.S. citizens have official~~ abroad positions to engage in trade in non-strategic items with Cuba and China.

Mr. Smith pointed out that the problem is an old one but that the degree of political concern within Canada over the extraterritorial application of U.S. law has reached a new level of seriousness. We are faced with the choice of continuing our present ad hoc consideration of these problems at the risk of important political difficulties with Canada or choosing the path recommended in the paper with the intent of

defusing this issue. The problem is more serious in Canada but also affects Britain and Western Europe, wherever there are important U.S. subsidiaries.

Speaking for the Defense Department, Dr. Halperin expressed general approval of the paper, reserving the right to make editorial changes. He noted that we have military arrangements with Canada such as NORAD which are of far greater importance to U.S. national interests than any benefit gained to us over restricting trade with Cuba. As regards China, DOD believes that it is a good time to make this modest adjustment in our position toward that country.

General Marshall stated that JCS is still studying the problem and he was, therefore, unable to comment on the paper.

Mr. Albright disputed the degree of seriousness with which the Canadians look on this issue. He argued that there is no need at the moment to change the present ad hoc policy of consideration of specific transactions on a case-by-case basis, noting that Secretary Fowler and Mr. Winters had only recently confirmed this approach. Beyond this, Mr. Albright noted that the Canadians (and the Belgians in a recent case) had backed down on the question of U.S. jurisdiction in order to

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avoid creating obstacles to the flow of American investment. Mr. Albright also indicated that the present balance of payments program involves the application of U.S. law to subsidiaries abroad in requiring them to repatriate a specific percentage of profits. He argued that if we were to relax our position on the trade with Cuba and China we would erode our legal position on the balance of payments program.

Mr. Smith noted that the proposal called for a change in the regulations under a general license which did not under-cut our basic legal position and would be revokable if the situation required.

Mr. Albright concluded by suggesting that any change in these regulations would give the impression to Congress and the people, as well as to foreign countries (including communists) that we were changing our basic policy toward Cuba and China. He added that the efficacy of moral suasion inhibiting trade with these countries would be greatly damaged if we no longer had effective legal restraints to back up our suasion.

Mr. Fried asked whether this aspect of the embargo program had much effect on trade with China and Cuba and whether these controls actually served a useful purpose. Mrs. Schwartz said that the inter-agency review of 1966 had concluded that these

controls were insignificant as regards China and of some modest importance in connection with Cuba. Mr. Albright pointed out that there are problems of equity involved, since under the proposal U.S. subsidiaries abroad would be permitted to engage in trade denied to firms resident in this country.

Mr. Fox expressed his agreement with the Treasury position and urged that we continue with Canada on a case-by-case basis. He also suggested that he would need an up-dated evaluation of our policy toward China before he could agree to modify the FAC. Mr. Fox expressed the view that the danger of American investments in Canada stemming from this problem was greatly exaggerated.

In response to Mr. Fox's comments about the Far East, Mr. Barnett noted that the Canadian attitude was not unique and that similar complaints of U.S. meddling in their internal affairs had been received from Japan, Singapore, and France. These controls are not effective in denying strategic goods to China where COCOM is the really significant element. To the degree that FAC regulations create resentment in some countries over the U.S. denial program, and thus inhibit COCOM cooperation, they actually damage our interests.

Messrs. Albright and Fox suggested that the issue was broader than presented in the paper. Turning to the suggestion in the Gordon Report that U.S. subsidiaries in Canada be forced by the Canadians to sell to either Cuba or China through the agency of a Canadian corporation set up explicitly for this purpose, Mr. Albright indicated that perhaps this would be a way out of the problem. Mr. Fox concurred stating that if the present case-by-case approach was not satisfactory to the Canadians then he would see no problem with the proposal in the Gordon Report (which would have the effect of forcing the American subsidiaries to act contrary to the regulations).

Mr. Fried suggested that we should approach the problem by setting out the advantages and disadvantages of the proposal and of continuing as we have in the past. Mr. Fitzgerald, responding to Mr. Fried, underlined that ARA supported the proposal. He went on to state, however, that the proposed changes would create difficulty for the Cuban denial program. It would be interpreted as a change in our attitude toward Cuba and this would make it more difficult to carry out other parts of the program. He reiterated that, despite this, ARA approved the proposal.

The Chairman, in concluding this meeting, noted that the discussion had revealed support for and opposition to the proposal. The Department would take this discussion into account in preparing a revised paper for submission to the SIG. The Chairman noted, in response to a query, that as a courtesy we would be prepared to have our new draft reviewed by interested agencies but he stressed an agreed paper was not a requirement for SIG consideration.

The IRG/EUR Staff Director would in a covering memo to the SIG staff draw attention to the differing points of view.